

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

ULTIMA CIRCUITS, LLC.
4361 Pell Drive
Sacramento, CA 95838

EPA ID # CAD 983576760

Respondent.

Docket HWCA 20040428

STIPULATION AND ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and Ultima Circuits, LLC (Respondent) enter into this Stipulation and Order (Order) and agree as follows:

1. A dispute exists regarding the Enforcement Order issued by the Department on February 7, 2006 . (Attached as Exhibit 1.)

2. The parties wish to avoid the expense of further litigation and to ensure prompt action to achieve the Schedule for Compliance below.

3. Jurisdiction exists pursuant to Health and Safety Code section 25187.

4. Respondent waives any right to a hearing in this matter.

5. This Order shall constitute full settlement of the violations alleged in the Enforcement Order, but does not limit the Department from taking appropriate enforcement action concerning other violations.

6. Respondent admits the allegations made in the Enforcement Order.

SCHEDULE FOR COMPLIANCE

7. The violations have been corrected.

PAYMENTS

8. Within 30 days of the effective date of this Order, Respondent shall pay the Department a total of \$4,000, as a penalty. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To: Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826

To: Sally Magnani Knox, Deputy Attorney General
Department of Justice
Office of the Attorney General
P.O. Box 944255
Sacramento, California 944244-2550

To: James J. Grace, Staff Counsel
Office of Legal Counsel
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1

and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

9.1. Prior Consent Order: The Consent Order entered into by the parties, effective November 23, 2005, remains in full force and effect.

9.2. Additional Enforcement Actions: By agreeing to this Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Order.

9.3. Penalties for Noncompliance: Failure to comply with the terms of this Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

9.4. Parties Bound: This Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

9.5. Effective Date: The effective date of this Order is the date it is signed by the Department.

9.6. Integration: This agreement constitutes the

entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Dated: June 16, 2006 Original signed by Gregory S. Gerdes
Gregory S. Gerdes, Vice President
Ultima Circuits, LLP
Respondent

Dated: June 23, 2006 Original signed by Charles A. McLaughlin
Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances
Control

EXHIBIT 1

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Ultima Circuits, LLC
4361 Pell Drive
Sacramento, California 95838

ID No: CAD 983 576 760

Respondent.

Docket HWCA 20040428

ENFORCEMENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) issues this Enforcement Order (Order) to Ultima Circuits, LLC (Respondent).

1.2. Site. Respondent generates, handles, treats, stores, and/or disposes of hazardous waste at the following site: 4361 Pell Drive in Sacramento, California (Site).

1.3. Consent Order. The Department and Respondent entered into a Consent Order with an effective date of November 23, 2005. (A true and correct copy of said Consent order is attached hereto as Exhibit A and is incorporated herein by this reference.) Said Consent Order provided, in pertinent part:

3. Respondent shall comply with the following:

3.1.1. . . . Respondent shall submit the revised, certified tank system assessment to the Department within 60 days of the date of this Order. . . .

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ULTIMA CIRCUITS, LLC

ENFORCEMENT ORDER
HWCA 20040428

5.4. If Respondent shall have been alleged to have committed one or more Class One violations (as defined by California Code of Regulations, title 22, section 66260.10) prior to the due date of the last payment set forth above, and said violation(s) ("Subsequent Violation(s)") is (are), at any time, sustained by operation of law, agreement, or the decision of any person authorized by law to sustain a violation, the total Settlement Amount, minus credit for all sums paid, shall then be immediately due and owing, without further notice. Nothing in this paragraph is intended to prohibit Respondent from exercising its right to appeal a finding of Subsequent Violation(s), if any, under the law, and any such time to file such an appeal must run before the provisions of this paragraph are exercised.

1.4. Jurisdiction. Health and Safety Code section 25187, subdivision (a), authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

2. DETERMINATION OF VIOLATIONS

2.1. The Department has determined that:

2.1.1. Respondent violated Health and Safety Code section 25188, in that Respondent failed to submit the revised, certified tank system assessment to the Department within 60 days of the date of the Consent Order.

2.1.2. The above violation is a Class One violation (as defined by California Code of Regulations, title 22, section 66260.10) and was committed prior to the due date of the last payment required by the Consent Order.

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3. SCHEDULE FOR COMPLIANCE

3.1. Based on the foregoing Determination of Violations, IT IS HEREBY ORDERED THAT:

3.1.1. Respondent shall submit the revised, certified tank system assessment as required by the Consent Order to the Department immediately.

3.1.2. Respondent shall comply with all terms, requirements, and conditions set forth in Section 5 (Penalty) below.

3.2. Submittals. All submittals from Respondent pursuant to this Order shall be sent to:

Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

3.3. Communications. All approvals and decisions of the Department made regarding such submittals and notifications will be communicated to Respondent in writing by the Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required.

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3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with this Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as deemed necessary and approve the document as modified, or

b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.5. Compliance with Applicable Laws. Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.6. Endangerment during Implementation. In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) is creating an imminent or substantial endangerment to the health or welfare of people on the Site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this paragraph shall be extended by the term of the Stop Work Order.

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3.7. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

3.8. Site Access. Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any other agency having jurisdiction. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law.

3.9. Sampling, Data and Document Availability.

3.9.1. Respondent shall permit the Department and/or its authorized representatives to inspect and copy all sampling, testing, monitoring, and/or other data (including, without limitation, the results of any such sampling, testing and monitoring) generated by Respondent, or on Respondent's behalf, in any way pertaining to work undertaken pursuant to this Order.

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3.9.2. Respondent shall allow the Department and/or its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order.

3.9.3. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either:

- (a) comply with that request,
- (b) deliver the documents to the Department, or
- (c) notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order and permit the Department to copy the documents prior to destruction.

3.10. Government Liabilities. Neither the State of California nor the Department shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent, or related parties specified in paragraph 4.3, in carrying out activities pursuant to this Order. Neither the State of California nor the Department shall be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

3.11. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated into this Order upon approval by the Department.

4. OTHER PROVISIONS

4.1. Additional Enforcement Actions. By issuance of this Order, the Department does not waive any right to take further enforcement actions within its jurisdiction involving either Respondent(s) or the Site.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties, and/or damages as provided by Health and Safety Code section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

4.4. Privileges. Nothing in this Consent Agreement shall be construed to require any party to waive any privilege, including without limitation, attorney-client and attorney work-product. However, the assertion of any privilege shall not relieve any party of its obligations under this Consent Order.

4.5. Time Periods. "Days" for the purpose of this Order means calendar days.

5. PENALTY

5.1. Based on the foregoing DETERMINATION OF VIOLATIONS, the Department sets the amount of Respondent's penalty at \$25,000 plus \$500 per day after January 22, 2006.

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5.2. In addition, as provided by the Consent Order, at paragraph 5.4 thereof, the total Settlement Amount of \$200,000, minus credit for all sums paid, is immediately due and owing.

5.3. Payment is due within 30 days from the effective date of the Order.

5.4. Respondent's check shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this case. Respondent shall deliver the penalty payment to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

6. RIGHT TO A HEARING

6.1. Respondent may request a hearing to challenge the Order. Appeal procedures are described in the attached Statement to Respondent.

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7. EFFECTIVE DATE

7.1. This Order is final and effective twenty days from the date of mailing, which is the date of the cover letter transmitting the Order to Respondent, unless Respondent submits a written request for a hearing within the twenty-day period.

Date of Issuance: February 8, 2006

Department of Toxic Substances Control

Original signed by Charles A. McLaughlin
Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control